IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPEAL NO.681 OF 1995

Intelligence Officer
Directorate of Revenue Intelligence
Bombay .. Appellant

Vs.

1. Shri Abubaker Abdul Wahid
Khan and ors. .. Respondents
(Nos.1 to 3
Org.Accd.
Nos.1 to 3)

Mr. J.C. Satpute for Appellant.
Mr. V.B. Konde-Deshmukh, APP for Respondent No.4-State.

CORAM : S.S. PARKAR & S.R. SATHE, JJ.

Date : December 06, 2004.

P.C.:

1. Perused the affidavit dated 17/9/2004 filed by D.S. Shetty, Senior Intelligence Officer, DRI, Mumbai Zonal Unit, Mumbai. From the said affidavit it appears that the prosecuting agency is unable to serve the respondent no.3. The appeal is of the year 1995. It was admitted by this Court on 11/12/1995. Though nine years have passed and inspite of the issue of non-bailable warrant against respondent no.3, the prosecution is unable to serve the respondent no.3 nor is able to trace him or find out his address. The appeal as against respondent no.2 was already

dismissed by order of this court dated 26/2/2001 for want of prosecution observing that hearing of the appeal cannot be delayed which is of the year 1995 merely because the respondent no.2 had not been served. For similar reasons the appeal as against respondent no.3 is also liable to be dismissed for want of prosecution. Mr. Satpute appearing for the complainant states that appeal against respondent no.1 may be allowed to proceed.

2. In the result, this appeal is dismissed against Respondent No.3 - Aas Mohamed s/o Lal Mohamed for want of prosecution. Now there is no bar to proceed with the appeal against remaining accused.

(S.S. Parkar, J.)

(S.R. Sathe,J.)